

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF NEW JERSEY**
3 **NEWARK DIVISION**

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12 **ANTI-PINCH SOLUTIONS, LLC,**

13 Plaintiff,

14 v.

15 **BMW OF NORTH AMERICA, LLC,**

16 Defendant.

Case No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

17 Plaintiff Anti-Pinch Solutions, LLC (“Plaintiff”) files this Complaint against BMW of
18 North America, LLC (“Defendant” or “BMW”) for infringement of United States Patent No.
19 5,399,950 (“the ‘950 patent”). A copy of the ‘950 patent is attached as Exhibit A.

20 **JURISDICTION**

21 1. This is an action for patent infringement under Title 35 of the United States Code.
22 Plaintiff is seeking injunctive relief as well as damages.

23 2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal
24 Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising
25 under the United States patent statutes.

26 3. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. §§ 1391(c)
27 and 1400(b) because Defendant is deemed to reside in this district. In addition, and in the
28

1 alternative, Defendant has committed acts of infringement in this district and has regular and
2 established places of business in this district.

3 4. Plaintiff Anti-Pinch Solutions, LLC is a Texas Limited Liability Company with
4 its registered agent in Austin, Texas.

5 5. Defendant BMW is a Delaware limited liability corporation with its principal
6 office located in Woodcliff Lake, New Jersey. This Court has personal jurisdiction over BMW
7 because BMW has its principal office in the state of New Jersey. Further, BMW has committed,
8 and continues to commit, acts of infringement in the state of New Jersey, has conducted business
9 in the state of New Jersey, and/or has engaged in continuous and systematic activities in the state
10 of New Jersey.

11 6. On information and belief, Defendant's products that are alleged herein to
12 infringe were and continue to be made, used, imported, offered for sale, and/or sold in the state
13 of New Jersey and BMW's practices that are alleged herein to infringe were and continue to be
14 conducted in the state of New Jersey.

15 7. This court has personal jurisdiction over Defendant because Defendant has
16 committed acts of infringement in this district; is deemed to reside in this district; does business
17 in this district; and/or has systematic and continuous contacts in this district.

18 8. This cause of action arises under the patent laws of the United States, and in
19 particular, 35 U.S.C. §§ 271 *et seq.*

20 9. Plaintiff is the exclusive licensee of the '950 patent with rights to enforce the '950
21 patent and sue infringers.

1 10. The ‘950 patent, titled “Automatic Venting System For A Vehicle with
2 Obstruction Detection Utilizing Dynamically Modified Thresholds,” is valid, enforceable and
3 was duly issued in full compliance with Title 35 of the United States Code.
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5 **COUNT I**

6 **(INFRINGEMENT OF UNITED STATES PATENT NO. 5,399,950)**

7 11. Plaintiff incorporates paragraphs 1 through 10 herein by reference.

8 12. On information and belief, BMW has and continues to directly infringe one or
9 more claims of the ‘950 patent, including at least claim 1, by making, using, offering for sale,
10 selling and/or importing infringing systems including, but not limited to, the anti-trapping system
11 in its E60 or BMW 5 Series automobiles.
12

13 13. On information and belief, BMW has and continues to directly infringe one or
14 more claims of the ‘950 patent, including at least claim 14, by practicing the methods claimed by
15 one or more claims of the ‘950 patent including, but not limited to, BMW’s use of and actions
16 related to the anti-trapping system in its E60 or BMW 5 Series automobiles.
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18 14. BMW has been aware of the ‘950 patent at least as early as service of this action.

19 15. On information and belief, BMW has and continues to indirectly infringe one or
20 more claims of the ‘950 patent by inducing other to infringe and/or contributing to the
21 infringement of others in violation of 35 U.S.C. §§ 271 (b) and (c). On information and belief,
22 BMW is aware, at least as early as service of this action, that the anti-trapping system in at least
23 is E60 or BMW 5 Series automobiles is not a staple article or commodity of commerce suitable
24 for substantial noninfringing use and is especially made and/or adapted for use in infringing the
25 ‘950 patent.
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1 16. BMW's actions complained of herein will continue unless BMW is enjoined by
2 this Court.

3 17. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.
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5 18. Plaintiff has complied with 35 U.S.C. § 287.
6

7 19. BMW's actions complained of herein are causing irreparable harm and monetary
8 damage to Plaintiff and will continue to do so unless and until the BMW is enjoined and
9 restrained by this Court.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff asks the Court to:

- 12 a) Enter judgment for Plaintiff on this Complaint;
- 13 b) Enjoin the Defendant, its agents, officers, servants, employees, attorneys and all
14 persons in active concert or participation with the Defendant who receive notice of
15 the order from further infringement of United States Patent No. 5,399,950;
- 16 c) Award Plaintiff an ongoing royalty rate for Defendant's post-judgment
17 infringement;
- 18 d) Award Plaintiff damages resulting from Defendant's infringement in accordance
19 with 35 U.S.C. § 284;
- 20 e) Treble the damages in accordance with the provisions of 35 U.S.C. §284;
- 21 f) Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- 22 g) Award Plaintiff reasonable attorney fees under 35 U.S.C. § 285;
- 23 h) Order the impounding and destruction of all Defendant's products that infringe the
24 '950 patent;
- 25 i) Award Plaintiff pre-judgment and post judgment interest and costs; and
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